



A REPORT  
TO THE  
MONTANA  
LEGISLATURE

PERFORMANCE AUDIT

# *Inspection and Complaint Activities for the Child Care Licensing Program*

*Department of Public Health  
and Human Services*

OCTOBER 2011

LEGISLATIVE AUDIT  
DIVISION

11P-11

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Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Members of the performance audit staff hold degrees in disciplines appropriate to the audit process.

Performance audits are performed at the request of the Legislative Audit Committee which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of six members of the Senate and six members of the House of Representatives.

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October 2011

The Legislative Audit Committee  
of the Montana State Legislature:

This is our performance audit of the Child Care Licensing Program. This report presents audit findings and includes recommendations to strengthen inspection and complaint processes for the program. A written response from the Department of Public Health and Human Services is included at the end of the report.

We wish to express our appreciation to Department of Public Health and Human Services officials and staff for their cooperation and assistance throughout the audit.

Respectfully submitted,

*/s/ Tori Hunthausen*

Tori Hunthausen, CPA  
Legislative Auditor

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# MONTANA LEGISLATIVE AUDIT DIVISION

## PERFORMANCE AUDIT

### Inspection and Complaint Activities for the Child Care Licensing Program

#### Department of Public Health and Human Services

OCTOBER 2011

11P-11

REPORT SUMMARY

The Department of Public Health and Human Services should strengthen management of inspection and complaint processes for the Child Care Licensing Program to assure the safety and security of children in child care facilities.

### Context

The Child Care Licensing Program is responsible for protecting the health, safety, and well-being of children receiving child care in Montana. The program registers, licenses, and monitors the state's child care facilities. As of April 2011, there were 1,188 registered or licensed child care facilities in the state.

Complaint response is also defined by individual program staff. We noted several complaints for child care facilities which alleged abuse or neglect, but there was no documentation regarding how the program and Child and Family Services Division (CFSD) coordinated and resolved the complaint.

#### Child Care Facility Information

As of April 2011

Facility Type	Registration or Licensure	Number of Children Allowed	Total Number of Facilities
Family	Registration	3 to 6	455
Group	Registration	7 to 12	480
Center	Licensure	13+	253

**Source: Compiled by the Legislative Audit Division from Department Records.**

Audit work examined the processes for conducting inspections and responding to complaints in child care facilities. Overall, we identified the need for more active guidance on the part of department management to direct the activities of the program. Inspection selection and prioritization, including following up on deficiencies identified in a prior inspection, is primarily left to the discretion of individual program staff. As a result, there are inconsistencies in the way the program chooses inspections for childcare facilities.

We also determined management information could be improved related to consistently documenting program activities and increasing the reliability of program data. The department documents program activities in multiple locations. As a result, the department is unable to clearly demonstrate compliance with state law. For example, the department does not have data to determine if it is inspecting centers licensed annually on an annual basis, as required by state law. And for complaints, the department is unable to clearly demonstrate it investigates and resolves complaints in a timely manner to assure the safety and security of children in child care facilities.

### Results

Audit recommendations address the need for the department to strengthen the inspection and complaint processes for the program. Recommendations include:

- ♦ Establish a protocol for the selection and prioritization of inspection activities,

*(continued on back)*

- ♦ Establish a policy for following up on deficiencies identified in child care facilities,
- ♦ Comply with administrative rules regarding required notifications for negative licensing actions,
- ♦ Establish a policy for the intake and response to complaints in child care facilities based on complaint type,
- ♦ Clarify the roles and responsibilities between the Child Care Licensing Program and Child and Family Services Division relative to complaints involving child care facilities, and
- ♦ Strengthen documentation controls for the activities of the child care licensing program.

Recommendation Concurrence	
Concur	6
Partially Concur	0
Do Not Concur	0
<b>Source: Agency audit response included in final report.</b>	



# Chapter I – Introduction

## **Introduction**

The Legislature enacted the Montana Child Care Act in 1989 to promote the availability and improve the quality of child care across the state. Located within the Quality Assurance Division of the Department of Public Health and Human Services, the Child Care Licensing Program is responsible for protecting the health, safety, and well-being of children receiving child care in Montana. The program registers, licenses, and monitors the state's child care facilities, which are also commonly referred to as providers. Registered providers are smaller facilities designated as family or group child care homes, while licensed providers are the larger facilities designated as child care centers. The Legislative Audit Committee identified a performance audit of the program as a priority.

## **Audit Objectives and Scope**

Our audit scope focused on determining if the department's processes relative to inspections and complaints are effectively managed and comply with existing law; and evaluating management information to determine if the department effectively monitors program operations. While the program is also responsible for the registration and licensure of child care facilities, we did not examine this process. During the assessment and planning stages of our work, we determined registration and licensure activities represented a low risk for the program.

## **Audit Methodologies**

As part of our audit work, we examined activities in each of the nine regional areas serviced by the program and the consistency with which work is performed. To address our audit objective, we completed the following methodologies:

- ♦ Reviewed applicable laws, administrative rules, program policies and reports,
- ♦ Reviewed requirements for federal block grant funding regarding the submission and development of the state child care plan to the U.S. Department of Health and Human Services,
- ♦ Observed an inspection in a child care facility conducted by department staff,
- ♦ Reviewed hardcopy and electronic records for a sample of 20 percent of 1188 child care facilities from July 1, 2009, to April 15, 2011, for a total of 240 facilities,
- ♦ Reviewed program data used by department staff to track and document inspection and complaint activities to determine how that information is used to direct program activities,

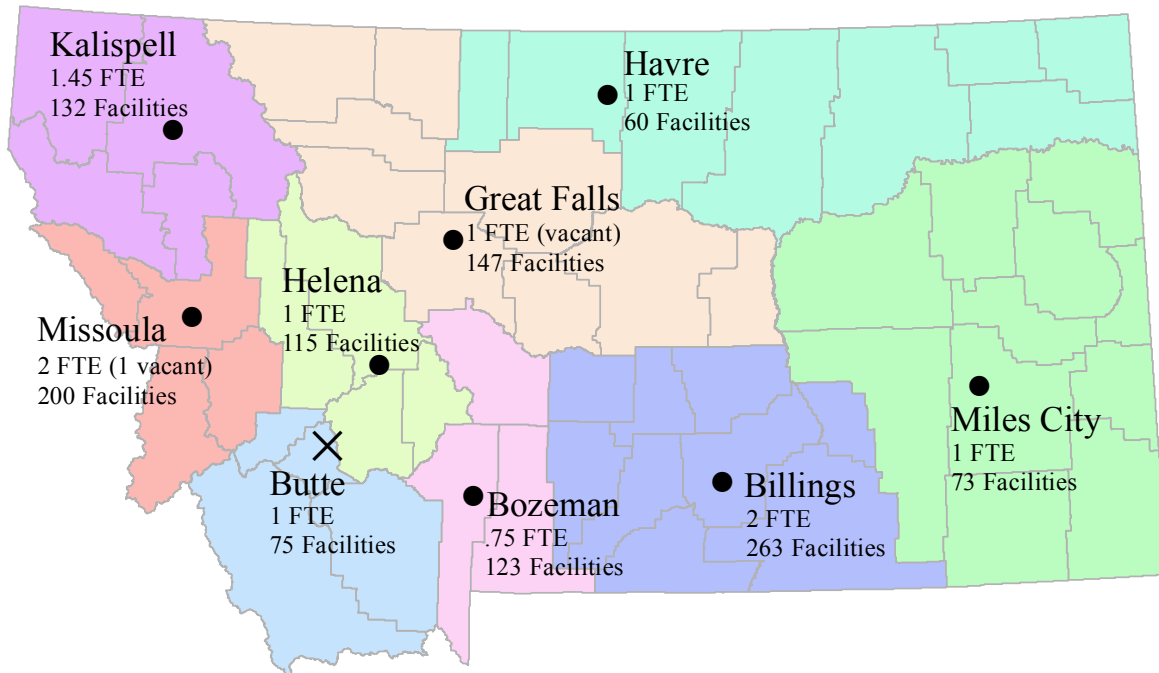
- ♦ Interviewed department staff, both in Helena and in regional service areas,
- ♦ Interviewed child care providers registered or licensed by the program,
- ♦ Interviewed staff from resource and referral agencies who provide contracted services for the program, and
- ♦ Obtained and reviewed information for similar programs in other states, the federal government, and industry best practices.

### **The Child Care Licensing Program**

The budget for the program for fiscal year 2011 was \$856,664, of which \$127,777 is general fund and \$728,887 are federal funds. The federal funds are part of the Child Care and Development Fund authorized as part of the Child Care and Development Block Grant Act made available to states by the U.S. Department of Health and Human Services. The block grant is provided to states to improve the quality of child care across the nation. There are no direct registration or licensing fees for child care facilities.

The program is comprised of 15.2 FTE. While the program is administratively centered in Helena, 11.2 FTE are located across the state and responsible for regulating child care facilities in nine regional services areas. There are physical offices located in each region, with the exception of Butte. Childcare facilities in the Butte region are the responsibility of a staff person located in Helena. The following map illustrates service areas, FTE assigned to each area, and number of facilities in each of those regions, as of April 2011.

Figure 1  
**Child Care Licensing Service Area Information**  
 As of April 2011



X=no physical office

Source: Compiled by the Legislative Audit Division from department records.

## Child Care Facility Data

As of April 2011, there were 1,188 child care facilities registered or licensed by the program. Registered providers are smaller facilities designated as family or group childcare homes, while licensed providers represent larger facilities designated as centers. State law only requires the registration or licensure of facilities which provide child care on a regular basis. Facilities which provide child care on an irregular basis are not required to register or obtain licensure. Section 52-2-703(14), MCA, defines regular basis. Registrations or licenses are generally granted on an annual basis; however, registrations or licenses may be extended for two or three years, based on past inspections. The following table outlines facility type, registration or licensure, number of children allowed per facility, and total number of facilities by type, as of April 2011.

Table 1  
**Child Care Facility Information**  
As of April 2011

Facility Type	Registration or Licensure	Number of Children Allowed	Total Number of Facilities
Family	Registration	3 to 6	455
Group	Registration	7 to 12	480
Center	Licensure	13+	253

**Source: Compiled by the Legislative Audit Division from department records.**

Once providers are registered or licensed, the department monitors facilities to ensure minimum standards are met. The remaining report chapters provide additional details regarding the department's inspection activities and complaint processes.

## **Report Contents**

The remainder of this report includes chapters detailing our findings, conclusions, and recommendations, in the following areas:

- ♦ Chapter II presents information to strengthen department inspection processes;
- ♦ Chapter III presents information to strengthen department complaint processes; and,
- ♦ Chapter IV addresses how the department could improve program management information.

## Chapter II – Strengthening Program Inspection Processes

### Introduction

The Child Care Licensing Program within the Department of Public Health and Human Services is responsible for making periodic visits—inspections—to registered and licensed child care facilities to ensure minimum standards are maintained. As part of our audit work, we examined the department’s processes for conducting inspections. This chapter presents recommendations to strengthen the department’s processes for program inspection activities in the following areas:

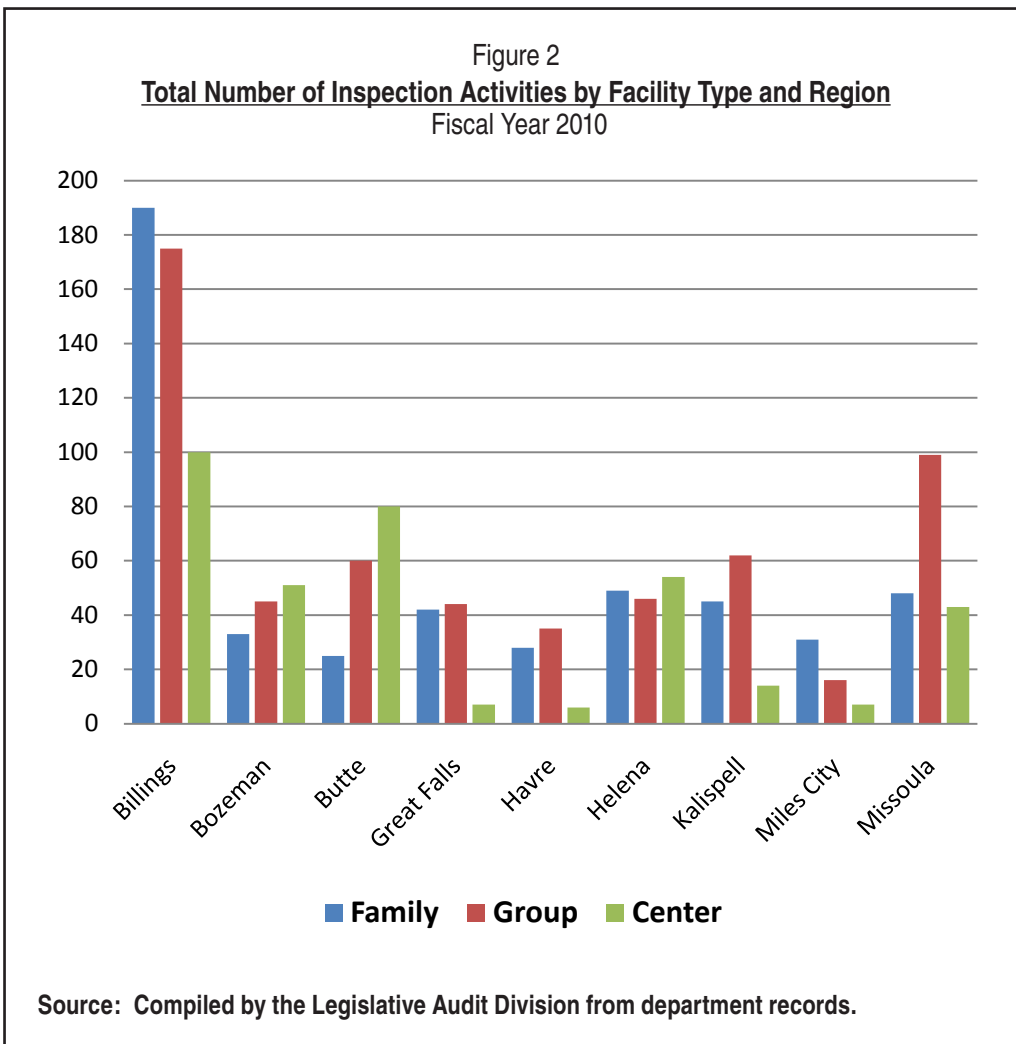
- ♦ Selection and prioritization of inspection activities
- ♦ Follow-up to noted inspection deficiencies
- ♦ Notification requirements for negative licensing actions

### **Program Inspections**

Inspections are important to assist facilities to achieve and maintain full compliance with minimum standards. Monitoring of child care facilities is critical to facilitate continued compliance with minimum standards in order to prevent or correct problems before they become serious. Technical assistance and consultation provided by department staff on an ongoing basis are essential to help facilities achieve compliance with those standards. In Montana, minimum standards for facilities are defined in administrative rules. Those standards include items such as facility staff-to-child ratios, facility safety requirements, facility records, facility food preparation, and nutritional requirements.

In addition to inspections required by law, the department also performs routine inspections, follow-up inspections to verify deficiencies identified in past inspections have been corrected, and inspections to investigate complaints. All inspections are unannounced. If a facility is unavailable for some reason, such as closure for a facility field trip, staff records the inspection activity as attempted and returns at a later date. In practice, when department staff inspect a facility, they are guided by a checklist of all the applicable administrative rules and assess through observation, interview, and file review whether a facility is meeting the minimum standards. At the close of an inspection, department staff will verbally inform facility staff of findings and discuss any concerns. Facility staff also receive written notification of inspection results, including a notice of deficiencies. Facility staff must respond within a defined timeframe with a corrective action plan which outlines how the facility will correct the deficiencies and the timeframe in which the deficiencies will be corrected. Department

staff generally review and approve corrective action plans as part of a desktop review; they may choose to visit the facility to confirm the deficiencies have been corrected. The department has the ability to reduce or cancel a registration or license upon finding a facility is not in compliance with minimum standards. The department completed a total of 1435 inspection activities (including attempted inspections) in fiscal year 2010. The following figure represents total number of inspection activities by region and facility type completed by the department in fiscal year 2010.



## Inconsistencies in the Selection and Prioritization of Inspection Activities

Currently, management sets a minimum number of inspections each region must conduct to meet statutory requirements for family and group providers. Management relies on staff to conduct inspections required by law for centers and make decisions when to conduct other types of inspections. This priority setting process has resulted in wide differences in the numbers and types of inspection activities conducted.

Inspection activities fall into six general types, family and group facility inspections, complaint inspections, center facility inspections, attempted inspections, follow-up inspections, and routine inspections. Refer to Appendix A for a chart which represents inspection activities for fiscal year 2010 by region, including the type and number of inspection activities conducted during that timeframe. As the appendix illustrates, one region completed nearly 150 routine inspections while another region completed less than ten routine inspections. Likewise, one region completed over 100 follow-up inspections, while all other regions completed approximately 20 or less follow-up inspections. Similarly, one region records attempting nearly 70 unsuccessful inspections, while all other regions record attempting less than 20 unsuccessful inspections.

### **Not All Facilities Being Inspected**

In our audit work, staff indicated they select family and group facilities to inspect based on similar factors, such as being a new facility, length of time since last inspection, and recent concerns raised as part of a complaint. We noted 45 of 240 facilities in our sample had not been inspected in our review period. Five of those facilities were family and group providers which had not been inspected for approximately four to five years.

We also found the department exceeds the requirement—20 percent of all family and group facilities annually—in state law for the percentage of family and group facilities inspected annually with their current resources. According to department data, the program inspected a total of 336—or 35 percent—of family and group facilities in fiscal year 2010. While this exceeds the 20 percent requirement outlined in state law, it brings into question whether the department is effectively utilizing their limited resources.

### **Other States More Clearly Define Inspection Selection and Prioritization**

Inspection activities for similar programs in other states generally happen more frequently or are more clearly defined by state law, administrative rules, or program policy. For example, in Colorado, management uses a more deliberate strategy to plan and prioritize inspections. The frequency of inspections is guided in procedure by the application of a risk code. Risk factors considered include: length of time licensed, number of prior violations, and any complaints against the provider. Higher risk facilities are prioritized for inspection. In North Dakota, staff are required to make at least two visits annually to each facility, one full-length and one drop-in. In Oklahoma, a minimum of three visits annually are required by administrative rules for facilities which are open year round. In Washington, per policy, facilities are inspected every 12-18 months depending on facility type; and in Wyoming, licensors must make one annual visit, as outlined in administrative rules. Presently, Montana does not have

a formal policy on selecting and prioritizing inspection activities. Rather than being actively directed by department management or policy, the selection and prioritization of inspection activities is left to individual staff. The department needs to strengthen its management of the inspection process by formalizing criteria for prioritizing inspection activities.

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#### **RECOMMENDATION #1**

*We recommend the Department of Public Health and Human Services establish and implement a protocol for the selection and prioritization of all inspection activities conducted in child care facilities.*

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### **Following Up on Inspection Deficiencies in Child Care Facilities**

In our audit work, we noted the department does not as a matter of practice follow-up on deficiencies identified during inspections to verify providers have made the appropriate corrective action. Onsite follow-ups are not required by state law. Corrective action plans submitted by providers in response to deficiencies are generally approved via a desktop review process. The following bullets represent observations from our sample review of inspection records regarding follow-up activities to verify deficiencies had been corrected:

- ◆ Overall, the department performed an onsite follow-up on prior inspections to verify deficiencies had been addressed 28 percent of the time. Seventy-two percent of the time the program did not follow-up to verify deficiencies had been addressed.
- ◆ In one region, the department performed an onsite follow-up on prior inspections to verify deficiencies had been addressed 82 percent of the time. In contrast, in another region, the department followed up on prior inspections to verify deficiencies had been addressed 13 percent of the time.

While there are instances of noncompliance which likely do not merit an onsite follow-up visit, such as missing paper work, other more serious deficiencies should be followed up on by department staff. For example, in our review of department inspection records, we noted instances of accessible cleaning materials and handguns. Staff did not conduct a follow-up visit to verify these deficiencies were corrected, instead relying on a desktop review of a corrective action plan. We also noted repeat deficiencies, indicating the provider may not have corrected a prior deficiency. The following table represents the most common deficiencies identified at child care centers



in fiscal year 2010. Deficiencies below are presented in order of administrative rule, not ranking of occurrence.

Table 2  
**Common Deficiencies Identified in Child Care Centers**  
Fiscal Year 2010

Administrative Rules	Deficiency
ARM 37.95.115 (1)	Written policies not available to parents
ARM 37.95.121 (1)	Cleaning materials and other toxic materials accessible to the children
ARM 37.95.128	Pediatric Health Statement not on file for each infant
ARM 37.95.141 (5)(a)	No written information on children with special needs
ARM 37.95.141 (6)	Written information not supplied on forms provided by the department
ARM 37.95.172	Lack of supervision
ARM 37.95.182 (3)(d)	Medication accessible to children in care
ARM 37.95.613 (6)	Emergency phone numbers not posted by each telephone
ARM 37.95.623 (1)	Staff-to child ratios not followed
ARM 37.95.1003 (1)	Individual feeding schedule not on file for each infant

**Source: Compiled by the Legislative Audit Division from department records.**

Not all deficiencies require an onsite follow-up. However, without parameters to guide staff on when to perform an onsite follow-up based on type and seriousness of deficiencies, the department may not effectively mitigate the potential dangers to children in child-care facilities. Currently, onsite follow-up on deficiencies is not guided by policy.

## **Other States and Best Practices More Clearly Define Follow-Up Activities**

Onsite follow-up activities and the verification that deficiencies have been corrected by providers is more clearly defined in other states. In Wyoming, due to the required annual visit, correction of deficiencies is verified at the next visit, unless determined too severe to wait. In Washington, per policy, staff are required to perform a follow-up inspection within 10 days for health or safety related violations. And in Oklahoma, due to the frequency of inspections, follow-ups are addressed at the next inspection. Best practices established by the U.S. Department of Health and Human Services indicate that relative to facility monitoring, the “licensing agency should adopt monitoring strategies that ensure compliance with licensing requirements.” Best practices also state that the “licensing agency should have procedures and staffing in place to increase the level of compliance monitoring for any facility found in significant noncompliance.”

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**RECOMMENDATION #2**

*We recommend the Department of Public Health and Human Services establish and implement policy for following up on deficiencies identified in child care facilities based on type of deficiency.*

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## **Department Does Not Comply With Corrective Action Requirements**

State law outlines the department's authority and ability to take action against a facility which is not in compliance with minimum standards, commonly referred to by department staff as a negative licensing action. Section 52-2-726(1)(b), MCA, states the department may "deny, suspend, cancel, reduce, modify, or revoke a license or registration" upon finding a facility is no longer in compliance with the minimum standards prescribed by the department. A negative licensing action may take place as the result of an inspection or complaint process. Administrative rule and department policy further define the process by which the department will pursue a negative licensing action against a facility, including required notifications to parents and the local child care resource and referral agencies in the event a facility is subject to a reduction in the status of their registration or licensure. In our audit work, we noted three of our 240 sampled facilities were the subject of a negative licensing action, which resulted in each facility being placed on a probationary status. The events that triggered the negative licensing actions included the walk away of a child from a facility, physical neglect of children, and a child left alone in the facility. However, none of the records we reviewed contained documentation that a notice was provided to the local child care resource and referral agencies. Similarly, only one of the three records contained documentation that the required notice was provided to the parents or guardians of children in the facility.

## **Program Staff Unclear About Reduced Status Notification Requirements**

Program management indicate there are a few reasons why notification did not occur and the facility files did not contain documentation of the required notices. In one case, program staff did not know that a reduction in a facility's license or registration to probationary status is classified as a negative licensing action, which warrants parental notice. In that case, the staff believed they were not required to notify parents, guardians, or resource and referral agencies. Program management consider this a staff training issue. In other cases, we had no way to verify whether program staff notified

the resource and referral agency of the three negative licensing actions because files did not contain documentation of the notice. Department policy states the program will provide “written notification” to the local child care resource and referral agency. The department does not actively monitor whether program staff comply with department requirements for a reduction in registration or license at a child care facility.

## **Administrative Rule and Program Policy Outline**

### **Reduced Status Notification Requirements**

Per administrative rules, “if a licensee is placed on a probationary or other provisional status, the department shall notify all parents and guardians of all children attending the facility of the status of the license, the basis for the reduced status and the time period for which the license is reduced.” The rule states that the department may “do so by personal notice, by written notice, or by posting notice on the child care license, which is required to be posted in plain view at the facility.” Program policy indicates the program will “provide written notification” to the local child care resource and referral agency to “prevent inadvertent referrals to an inappropriate provider.” Similarly, the program’s policy states that if a facility is placed on probationary status, the “department shall notify all parents and guardians of all children attending the facility of the status of the license/registration, the basis for the reduced status and the time period for which the license is reduced.” As discussed, the program did not provide required notices to parents and resource and referral agencies when a facility was subject to a registration or license reduction, as required by administrative rule and department policy.

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#### **RECOMMENDATION #3**

*We recommend the Department of Public Health and Human Services comply with state law, administrative rule, and department policy by:*

- A. *Clarifying the roles and responsibilities of management and staff for negative licensing actions.*
  - B. *Training staff on responsibilities for negative licensing actions.*
  - C. *Monitoring staff activities to ensure compliance with requirements for negative licensing actions.*
-



## Chapter III – Strengthening Program Complaint Processes

### Introduction

As part of our audit work, we examined the department's processes for responding to complaints. In fiscal year 2010, the program received 356 complaints against child care facilities. This chapter presents recommendations to strengthen the department's processes for responding to and investigating complaints against child care facilities in the following areas:

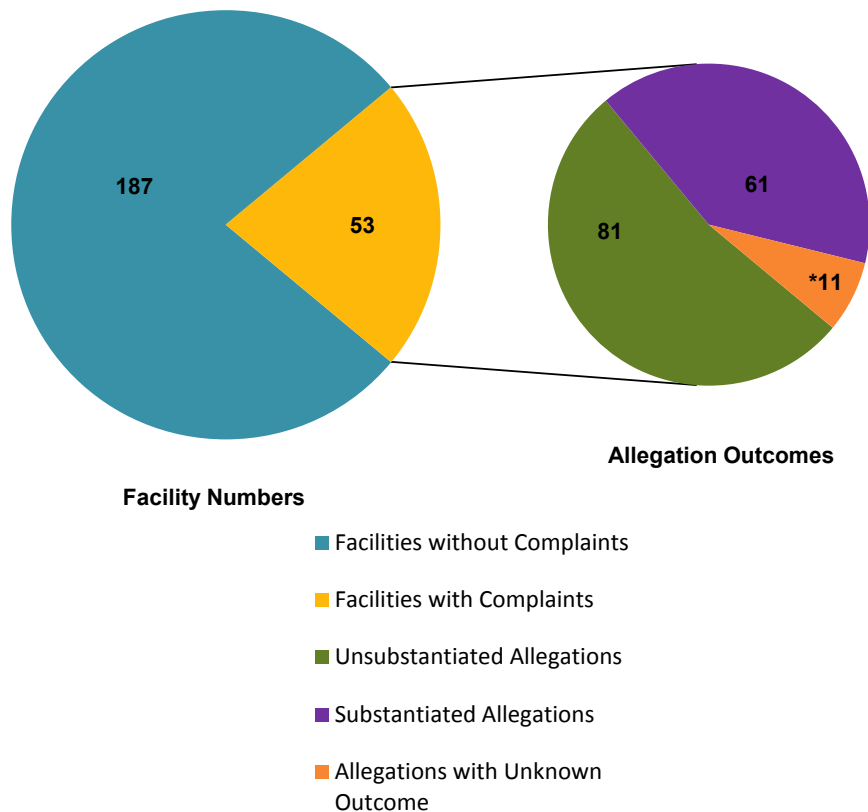
- ♦ Complaint intake and assessment processes
- ♦ Addressing abuse and neglect complaints

### Program Complaints

Complaints may serve as an early warning before more serious adverse events occur. When the department receives a complaint, staff perform an initial assessment to determine the actions and timeliness of their response. A complaint moves forward very much like an inspection, with complaint investigations unannounced. Staff investigate the complaint and assess through observation, interview, and review of documents whether the complaint is valid. Over the course of a complaint investigation, licensors may note other deficiencies at the facility relative to standards defined in administrative rules. After the complaint investigation, staff verbally inform the facility of their findings and discuss any concerns. Staff then generate a notice of deficiencies to which the facility must respond with a corrective action plan. The plan outlines how the facility will correct the deficiencies and the timeframe in which the deficiencies will be corrected. Staff generally review and approve corrective action plans as part of a desktop review; they may also choose to visit the facility to confirm the deficiencies have been corrected.

As with inspections, the department has the ability to reduce or cancel a registration or license upon finding that a facility is not in compliance with minimum standards. In our audit sample of 240 facilities, we noted 53 facilities had complaints which represented 153 allegations. The following chart represents the number of sampled child care facilities with complaints, including the number of allegations and status of those allegations.

Figure 3  
**Sampled Facility Complaints and Allegation Outcomes**  
 July 1, 2009 Through April 15, 2011



\*Outcome not documented

Source: Compiled by Legislative Audit Division from department records.

As the figure illustrates, complaints occurred in approximately 22 percent of the facilities we reviewed. In our sample, approximately 40 percent of the 153 allegations were substantiated.

### **Strengthening Complaint Processes**

We reviewed the department's program manual which defines policies for both inspections and complaints. Relative to complaints, the policy provides limited guidance to staff on how to intake and assess a complaint received by the program. The policy restates statutory requirements and defines specific administrative tasks, such as the informational format to follow for the intake of a complaint. This policy provides a framework for staff to gather information regarding a complaint, such as who, what, when, where, why, and how. However, the manual does not define timelines, response

actions, or when to verify if concerns identified during a complaint have been corrected to ensure facilities are safe and secure for children.

## **Intake and Assessment of Complaints is Inconsistent**

As a result of a limited policy defining how the program performs intake and assessment for complaints, we noted the following related to the intake and assessment of complaints received by the program:

- ♦ Time elapsed from intake to investigation ranged from 0 to 90 days and from intake to close ranged between 0 to 266 days.
- ♦ We were unable to determine if staff followed the program's policy manual for 7 percent of the sampled allegations due to a lack of documentation.
- ♦ Department staff followed up with an onsite visit on the corrective action plan for 34 percent of validated allegations, and performed no onsite follow-up in 66 percent of the validated cases.

While not all allegations merit an onsite follow-up, in our review we noted circumstances of health and safety-related allegations, which it did not appear were followed up on by the department. For example, we noted validated allegations of inappropriate forms of discipline, and a child walking away from a facility for which there was no documentation the department followed up on the allegation with an onsite visit.

## **Other Programs Have Adopted a Risk-Based Standard for Complaints**

In similar programs in other states, the intake and response to complaints about child care facilities is more clearly defined by a scale of risk-based factors found in either law or program policy. For example, in Colorado, response times are defined by the application of a risk factor outlined in program policy; in Oklahoma, licensors assign a level of risk to a complaint, which dictates actions and timelines. And similarly, in Oregon, Washington, and Wyoming, program policy defines response times to complaints based on the type of complaint. Best practices established by the U.S. Department of Health and Human Services indicate complaints should be investigated promptly, based on severity of the complaint. During our review, we also noted that within the department, Child and Family Services Division (CFSD) also assigns a level of priority to complaints they receive of neglect or abuse, which defines response timeframes and actions.

As noted earlier, policy does not address how to screen, prioritize, and respond to complaints. For example, there is no guidance in the policy for:

- ♦ What constitutes a high, medium, or low priority complaint
- ♦ The level of staff involvement or action required
- ♦ Timelines for responding to a complaint
- ♦ Required involvement of department management
- ♦ When to perform follow-up to verify facilities have corrected deficiencies identified through the complaint process
- ♦ Documenting the complaint, department actions, referrals, and outcomes

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#### **RECOMMENDATION #4**

*We recommend the Department of Public Health and Human Services establish and implement a policy for a risk-based intake and response to child care facility complaints which defines complaint response timeframes and actions.*

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### **Coordination of Complaints That Allege Abuse and Neglect Could Be Strengthened**

If a complaint alleges abuse or neglect of a child in a child care facility, the program will coordinate with local law enforcement or CFSD within the department, which has statutory authority to investigate such allegations. The program defers to CFSD in those instances, as alleged abuse or neglect falls outside of their statutory authority; however, the program will coordinate with CFSD and investigate the complaint as it pertains to child care standards outlined in administrative rules. Policy guides department staff on how they are to respond to complaints and indicates that CFSD is the lead investigator in circumstances of child protection, such as alleged child abuse and neglect. The policy states that child care licensing staff may contact the local CFSD office to coordinate a joint investigation of a child care facility for child protection complaints.

When CFSD receives a complaint regarding a child care facility, it triggers an electronic alert to child care licensing staff via the licensing program's database. Informal protocol is for licensing staff to contact CFSD staff and determine if the complaint relates to a child care facility. Licensing staff have limited access to CFSD reports. However, there is no documented procedure. During the audit, we noted instances of poorly documented coordination. For example, in our file review, we noted several



complaints recorded in the program's database identified only by a complaint number. There was no information in the database regarding the intake, which department staff was assigned to investigate, or the outcome of the complaint. According to program management, these instances represent complaints which are generated via an electronic alert from CFSD to the licensing program's database. While department policy indicates these two programs may work together in the circumstance of a child protection complaint, the policy does not clearly outline the roles and responsibilities between the two programs, including how joint activities are coordinated, what should be documented, and how complaints are resolved.

### **Other Programs Have Defined Protocols in Neglect and Abuse Investigations**

Similar to Montana, child care licensing programs in other states routinely work with their equivalent of Child Protective Services (CPS) when the issue of neglect or abuse of child is raised in a child care facility, with CPS taking the lead in those circumstances. Of note, in Washington, there is a formal service level agreement between the licensing program and CPS program, which outlines the respective roles and responsibilities between the two entities when accepting intakes alleging abuse and neglect licensing violations in child care facilities. The agreement defines items such as intake protocol, investigative processes, communication, staffing, and sharing of information.

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#### **RECOMMENDATION #5**

*We recommend the Department of Public Health and Human Services formally define the roles, responsibilities, and documentation requirements for actions between the Child Care Licensing Program and Child and Family Services Division in child care facilities.*

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## Chapter IV – Improving Management Information

### **Introduction**

A key component of a system of management controls includes the identification, capture, and exchange of information for use both within an agency and with external stakeholders. Department management need both operational and financial data in order to determine whether a program is meeting goals for accountability and effectively using program resources. During the audit, we concluded that the department does not have the information needed to effectively manage program activities related to both inspections and complaint investigations. We determined management information should be improved related to:

- ♦ Consistently documenting program activities
- ♦ Reliability and accuracy of program data

### **Limited Management Information Exists for the Program**

In our review, we noted an overall lack of consistency in the way the department documents program activities. Presently, the department documents the activities of the program in a database called Child Care Under the Big Sky (CCUBS), with an electronic form to record inspections called SansWrite, and in various hard-copy formats. In our review, we noted inspection activities are documented in multiple sources and formats and the level of detail regarding program activities varies widely. We noted circumstances of complaints documented in some fashion in hard copy format, but no corresponding information in the program's database. Additionally, we found instances where there was a record of a complaint number in the database, but no details regarding the intake or outcome of the complaint. The following represents examples of inconsistencies in the way the department documents program inspection and complaint activities.

### **Inspections**

- ♦ Of 430 reviewed inspection activities, 76 percent of those activities were documented in some fashion in both hard-copy and electronic records; 19 percent were documented only in the program's database; and 5 percent were documented only in hard-copy files.
- ♦ Of 397 sampled inspections, 6 percent of the inspections did not provide enough documentation to ascertain if deficiencies had been identified.
- ♦ Of 196 inspections with identified deficiencies, for 5 percent of facilities there was no documentation of a corrective action plan having been received by the program; for 22 percent, there was no documentation that the corrective action plan was accepted by the program.

## Complaints

- ♦ Of 153 allegations, 79 percent were documented in both hard-copy files and electronic records, 3 percent were documented only in hard-copy files, and 18 percent were only documented in the database.
- ♦ Of 153 allegations, 7 percent had no program documentation if the complaint was validated; in 8 percent there was no program documentation of an onsite investigation.

## It is Difficult for the Department to Demonstrate Compliance with State Law

As a result of the inconsistencies in the way the program documents activities and subsequent data limitations, program management does not readily have all the information needed to effectively manage the activities of the program and demonstrate compliance with statutory obligations. For example, while the department has data to support the number of inspections the program performs on all centers annually, the department is unable to distinguish between the types of centers—one-, two-, or three-year licenses—to determine if it is meeting its statutory obligation to inspect centers licensed each year on an annual basis, per §52-2-733(4)(a), MCA. For complaints, the department is similarly unable to easily demonstrate it investigates complaints in a timely manner.

## Department Has Not Established Guidelines for Program Documentation

According to program management, there are a variety of reasons why the department does not consistently document program activities, such as the inability of the electronic inspection tool used by staff to interface with the program's database. While this may be the case, ultimately the department has not made it a priority to clearly outline expectations of staff to document program activities, including what information should be documented and where the information should be documented. For example, while the program's policy manual outlines the monitoring process for family and group providers, with the direction that the "results of the inspection are to be referenced within the program's database," it is unclear what level of detail should be referenced in the database. Currently, staff generally place only the date of the inspection in the database, if any data is recorded there.

As for complaints, program management indicate the program's database is the official record, with limited information located in hardcopy files. In addition, the program's policy manual indicates information from the intake format is to be entered into the program's database. However, the policy does not provide any other guidance for documentation of complaint activities. In our review, we noted circumstances of

complaints documented in some fashion in hard copy format, but no corresponding information in the program's database. Additionally, we found instances where there was the record of a complaint number in the database, but no details regarding the intake or outcome of the complaint.

### **Electronic Tools Used by Program Do Not Interface**

The department uses two different electronic systems to document inspection activities for the licensing program, CCUBS and SansWrite. CCUBS is the database used by the program to record child care facility information related to applications, renewals, inspections, and complaints. SansWrite is the electronic inspection form staff use when performing inspections to record the results of an inspection. CCUBS is also used by other programs related to early childhood development within the department. While the department uses these two different electronic tools to document and record program activities, due to the inability of these two tools to interface, inspection data for the program is not easily obtained. According to staff, while SansWrite records the results of an inspection, SansWrite does not have the ability to compile program data for analysis or transfer inspection results to CCUBS for data compilation and analysis.

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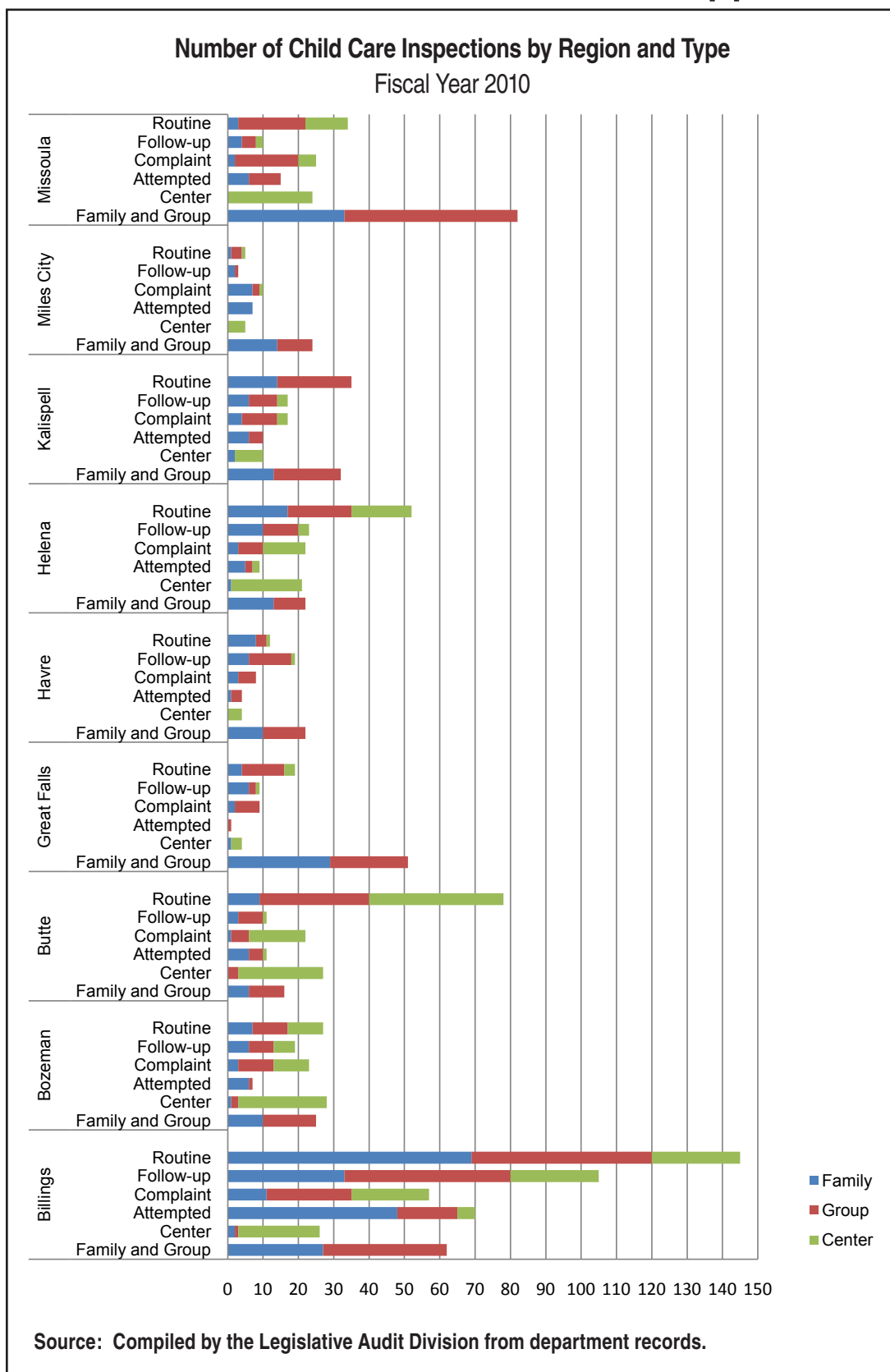
#### **RECOMMENDATION #6**

*We recommend the Department of Public Health and Human Services strengthen documentation controls to ensure consistent documentation of inspection and complaint activities of the Child Care Licensing Program.*

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# Appendix A



DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN  
SERVICES

DEPARTMENT RESPONSE



DEPARTMENT OF  
PUBLIC HEALTH AND HUMAN SERVICES



Brian Schweitzer  
GOVERNOR

Anna Whiting Sorrell  
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STATE OF MONTANA

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October 14, 2011

Ms. Tori Hunthausen  
Legislative Auditor  
Office of the Legislative Auditor  
State Capitol, Room 160  
Helena, Montana 59620-1705

RECEIVED  
OCT 14 2011  
LEGISLATIVE AUDIT DIV.

Re: Performance Audit - Child Care Licensing

Dear Ms. Hunthausen:

Thank you for the opportunity to submit a response to the 2011 Performance Audit on Child Care Licensing. The Department views this audit and its resulting recommendations as constructive and will work to evaluate and implement these recommendations in a cost effective manner. Below is our response to the findings listed in the report.

**Recommendation # 1**

We recommend Department of Public Health and Human Services establish and implement a protocol for the selection and prioritization of all inspection activities conducted in child care facilities.

***Department Response: Concur***

***Scheduled Improvements:*** The Child Care Licensing Program has initiated the process of updating policies to reflect protocols for selection and prioritization of all inspection activities.

***Corrective Action Timeline:*** November 30, 2011.

**Recommendation #2**

We recommend Department of Public Health and Human Services establish and implement policy for following up on deficiencies identified in child care facilities based on type of deficiency.

***Department Response: Concur***

*An Equal Opportunity Employer*



***Scheduled Improvements:*** The Child Care Licensing Program has initiated the process of updating applicable policies. The policies will be enhanced to identify which types of inspections and deficiencies require on-site follow-up inspection and defining the difference between on-site inspections and a desk review follow-up on the Plan of Correction.

***Corrective Action Timeline:*** November 30, 2011.

**Recommendation #3**

We recommend Department of Public Health and Human Services comply with state law, administrative rule, and department policy by:

- A. Clarifying the roles and responsibilities of management and staff for negative licensing actions
- B. Training staff on responsibilities for negative licensing actions
- C. Monitoring staff activities to ensure compliance with requirements for negative licensing actions

***Department Response:*** *Concur*

***Scheduled Improvements:***

The Child Care Licensing Program has initiated the process of updating applicable policies, is increasing training and follow-up efforts and will institute a checklist to be used when negative actions occur.

***Corrective Action Timeline:*** November 30, 2011.

**Recommendation #4**

We recommend Department of Public Health and Human Services establish and implement a policy for a risk-based intake and response to child care facility complaint response timeframes and actions.

***Department Response:*** *Concur*

***Scheduled Improvements:*** The current policy (CCL-009 Day Care Complaint, Referrals and Investigations) requires that investigations be initiated within 24 hours. The Child Care Licensing Program will further clarify this policy and related operating procedures so that there are clear expectations for what is required within this timeframe. Additionally, the Program will follow-up with other states such as Oklahoma, Wyoming, Oregon and Washington to evaluate further policy adaptations.

***Corrective Action Timeline:*** December 30, 2011

**Recommendation #5**

We recommend Department of Public Health and Human Services formally define the roles, responsibilities and documentation requirements for actions between the Child Care Licensing Program and Child and Family Services Division in child care facilities.

***Department Response:*** *Concur*

***Scheduled Improvements:*** The current policy (CCL-009 Day Care Complaint, Referrals and Investigations) defines the responsibilities between the Child Care Licensing Program and Family Services Division. The Child Care Licensing Program will work with the Child and Family Services Division to ensure that the roles and requirements are clearly defined for both parties and will update the language in the policy accordingly.

***Corrective Action Timeline:*** December 30, 2011

**Recommendation #6**

We recommend Department of Public Health and Human Services strengthen documentation controls to ensure consistent documentation of inspection and complaint activities of the Child Care Licensing Program.


***Department Response:*** Concur

***Scheduled Improvements:*** The Child Care program will implement both automated and process improvements into its documentation efforts.

***Corrective Action Timeline:*** March 31, 2012

If you have any questions regarding our response, please contact Becky Fleming-Siebenaler, Child Care Licensing Bureau Chief at (406) 444-7770 or Marie Mathews, Business and Financial Services Division Administrator at 406 (444-9407).

Sincerely,

  
Anna Whiting Sorrell, Director  
Department of Public Health and Human Services